



THE CITY OF NEW YORK
LAW DEPARTMENT

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January 23, 2012

BY ECF

Honorable Cheryl L. Pollak
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Jleesa Livingston, et ano v. City of New York, et al.
11 CV 777 (SJ)(CLP)

Your Honor:

I am a Senior Counsel in the New York City Law Department representing defendants in the referenced matter. I respectfully submit this letter in opposition to plaintiffs' *second* letter motion for sanctions dated January 23, 2012.

The basis of plaintiffs' motion is plaintiffs' allegation that defendants have violated the Court's order dated December 13, 2011 by not producing the disciplinary records of the ESU (Emergency Service Unit) officers named in the complaint by January 20, 2012. The officers in question are defendants William Hart and Brian Glacken, who, pursuant to that same order, filed their answer to the amended complaint on January 20, 2012.

Defendants have provided the disciplinary records at issue by email on this date.¹ Though not technically served on January 20, 2012, plaintiffs have nonetheless received the records by the date they would have received them had defendants served them last Friday. Defendants had the records since December 29, 2011 (the date indicated on the record caption), but misread the order as requiring only the answer on January 20, 2012. Had plaintiff extended counsel the courtesy of a call before filing the motion, this matter could have been resolved without the need for Court intervention.

¹ The records provided are the Civilian Complaint Review Board ("CCRB") complaint histories, which indicate all civilian complaints filed against an officer whether substantiated or not. With respect to Officer Glacken, the records reveal that he has no complaints filed against in his entire 13-year career. As for Officer Hart, he has a single complaint filed against him in his 13-year career. Thus, plaintiff cannot be heard to argue that he has suffered any prejudice from this occurrence.

Accordingly, the Court should deny plaintiffs' instant motion for sanctions.

I thank the Court for its consideration of the foregoing.

Respectfully submitted,

/s/

Steve Stavridis
Special Federal Litigation Division

cc: By ECF
Afsaan Saleem, Esq.